



MEMO

**To : EXECUTIVE COMMITTEE
KATHRYN E. DOI, CHAIR
BISMARCK OBANDO, MEMBER**

Date: May 13, 2019

**From : TIMOTHY M. CORCORAN
ROBIN P. PARKER**

**Subject: DISCUSSION AND CONSIDERATION OF REVISING THE BOARD'S
LEGISLATIVE POLICY - EXECUTIVE COMMITTEE**

At the August 20, 1996, General Meeting, the members adopted the following Legislative Policy:

The Board will participate in industry discussion of legislation if requested, but it will not take a formal position on any particular bill. This will ensure that the Board explains its operations and helps the parties better understand what the fiscal and operational ramifications, if any, will be.

The Executive Committee and staff are proposing the following revised Legislative Policy:

- Legislative Committee Policy and Composition:
 - Comprised of the Executive Committee unless otherwise designated by the Board President.¹
 - The Legislative Committee will provide California State Transportation Agency (CalSTA) with its own analysis, drafted by staff counsel and approved by the committee on any Legislation of Special Interest.² If there is insufficient time for Legislative Committee approval, the Executive Director is delegated the power to approve the analysis. The committee will be provided a copy of the analysis and fully briefed.
 - The Legislative Committee will continue to provide the Department of Motor Vehicles (Department) with bill analyses at the Department's request, drafted by staff counsel and approved by the committee on any Legislation of Special Interest. If there is insufficient time for Legislative

¹ The Board President appoints the members serving on committees annually when officers are elected or in the event of a vacancy or inability of a member to serve, which would include, but not be limited to, a conflict of interest.

² "Legislation of Special Interest" directly affects the Board's laws or functions.

Committee approval, the Executive Director is delegated the power to approve the analysis. The committee will be provided a copy of the analysis and fully briefed.

- In the bill analyses provided to CalSTA, the Legislative Committee will not take a formal position on any bill, with the exception of Legislation of Special Interest that proposes to drastically increase or reduce the Board's statutory authority and/or workload or intends to eliminate the Board.
- Absent CalSTA approval, the Legislative Committee would not publicly take a position on any bill.
- The Legislative Committee delegates to the Executive Director the ability to discuss pending Legislation of Special Interest with stakeholders or sponsors regarding technical input without prior committee approval.
- Board Legislative Policy
 - The Legislative Policy adopted by the Board on August 20, 1996, provides that "[t]he Board will participate in industry discussion of legislation if requested." The portion of the policy "but will not take a formal position on any particular bill" will be amended consistent with the Legislative Committee Policy outlined above.
 - The full Board will continue to be apprised of legislation of both special and general interest³ at noticed Board Meetings.
 - Absent CalSTA approval, the Board would not publicly take a position on any bill.
 - The Board staff will continue to provide technical and procedural advice to stakeholders on pending legislation.
- Public Records Act Requests
 - A Legislative Committee analysis will not be subject to disclosure under the Public Records Act. Government Code section 6254(l)⁴ exempts such communications to the Governor. These analyses will be submitted to CalSTA and ultimately the Governor so the exemption applies. The

³ "Legislation of General Interest" is a bill that impacts the Vehicle Code, the Board, and/or the automotive industry in general but does not directly impact the Board or its enabling statute.

⁴ Subdivision (l) of Government Code section 6254 provides that the Public Records Act does not require disclosure of: "Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter."

Deliberative Process Privilege⁵ and Attorney-Client Privilege/Attorney Work Product Privilege⁶ are also applicable.

If the Board adopts the revised Legislative Policy, then as a separate agenda item, the Board President will formally create the Legislative Committee.⁷

This matter is being agendized for discussion and consideration at the June 7, 2019, General Meeting. If you have any questions or require additional information, please do not hesitate to contact me at (916) 324-6197 or Robin at (916) 323-1536.

⁵ Government Code section 6255 provides:

(a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

(b) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

⁶ Subdivision (k) of Government Code section 6254 provides that the Public Records Act does not require disclosure of: "Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege."

⁷ Article 4 of the Board adopted Parliamentary Procedures delegates to the Board President the ability to "form committees and appoint Members thereto for the purpose of performing any duty which is not otherwise prohibited by law." The formation of committees and appointment of members occurs at a meeting and is entered in the minutes.